

**FILED**

JUL 16 2018

DAVID CREWS, CLERK

BY CSH Deputy

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

PAGE 1

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPIJerry VanWagner

Plaintiff

v.

CASE NO. 4:18CV150-DMB-RPC. Faulks

Defendant

## PRISONER'S COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT

1. The Plaintiff's full legal name, the name under which the Plaintiff was sentenced, the Plaintiff's inmate identification number, the Plaintiff's mailing address, and the Plaintiff's place of confinement are as follows:

A. Legal name:

Jerry VanWagner

B. Name under which sentenced:

Jerry VanWagner

C. Inmate identification number:

161751

D. Plaintiff's mailing address (street or post office box number, city, state, ZIP):

Unit 30 C building  
Parchman, MS. 38738

E. Place of confinement:

M.S.P.

2. Plaintiff names the following person(s) as the Defendant(s) in this civil action:

Name:

C. Faulks

Title (Superintendent, Sheriff, etc.):

M.S.P. Medical director

Defendant's mailing address (street or post office box number, city, state, ZIP)

Unit 42 HospitalParchman MS 38738

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

PAGE 2

Name:

Title (Superintendent, Sheriff, etc.):

Defendant's mailing address (street or  
post office box number, city, state, ZIP)

Name:

Title (Superintendent, Sheriff, etc.):

Defendant's mailing address (street or  
post office box number, city, state, ZIP)

Name:

Title (Superintendent, Sheriff, etc.):

Defendant's mailing address (street or  
post office box number, city, state, ZIP)

(If additional Defendants are named, provide on separate sheets of paper the complete name, title, and address information for each. Clearly label each additional sheet as being a continuation of Question 2).

3. Have you commenced other lawsuits in any other court, state or federal, dealing with or pertaining to the same facts that you allege in this lawsuit or otherwise relating to your imprisonment? ☐ Yes ☒ No

4. If you checked "Yes" in Question 3, describe each lawsuit in the space below. If there is more than one lawsuit, describe the additional lawsuit(s) on separate sheets of paper; clearly label each additional sheet as being a continuation of Question 4.

A. Parties to the lawsuit:

Plaintiff(s):

Defendant(s):

B. Court:

C. Docket No.:

D. Judge's Name:

E. Date suit filed:

F. Date decided:

G. Result (affirmed, reversed, etc.):

5. Is there a prisoner grievance procedure or system in the place of your confinement? ☒ Yes ☐ No
6. If "Yes," did you present to the grievance system the same facts and issues you allege in this complaint? (See question 9, below). ☒ Yes ☐ No
7. If you checked "Yes" in Question 6, answer the following questions:

ND MISS. FORM P3, COMPLAINT CHALLENGING CONDITIONS OF CONFINEMENT (4/00)

PAGE 3

A. Does the grievance system place a limit on the time within which a grievance must be presented?



Yes



No

B. If you answered "Yes," did you file or present your grievance within the time limit allowed?



Yes



No

C. The court must find that you exhausted the prison's grievance system and administrative remedies before it can consider this Complaint. State everything you did to present your grievance(s). Be specific. Include the date(s) on which you filed or presented your grievances to prison officers; identify the officer(s). State your claim(s) exactly.

See enclosed grievance M.S.P. -  
18-0636 attached to original  
complaint

D. State specifically what official response your grievance received. If the prison provides an administrative review of the decision on your grievance, state whether you applied for that review and what the result was.

prison staff ignored and  
rejected the grievance

Special Note: Attach to this Complaint as exhibits complete copies of all requests you made for administrative relief through the grievance system, all responses to your requests or grievances, all administrative appeals you made, all responses to your appeals, and all receipts for documents that you have.

8. If you checked "No" in Question 6, explain why you did not use the grievance procedures or system:

N/A

9. Write below, as briefly as possible, the facts of your case. Describe how each Defendant is involved. Write the names of all other persons involved. Include dates and precise places of events. Do not give any legal argument or cite any legal authority. If you have more than one claim to present, number each claim in a separate paragraph. Attach additional pages only if necessary; label attached pages as being continuations of Question 9.

plaintiff contacted Hepatitis C from unsanitary ~~barber~~ barber clippers. ~~Since~~ Since 2012 plaintiff has hepatitis C and has not been treated. Everytime he request treatment he has been told that the medical director will not approve of his treatment and cure because of the expensive cost to treat and cure this disease that he received from M.D.O.C grooming policy. VastWagner has a constitutional right to be protected from harm from staff and prisoners. This eighth ~~amendment~~ Amendment violation occurred from M.D.O.C prison policy and the deliberate indifference to my serious medical needs is protected by the 14th Amendment.

10.

Prison officials and medical director C. Faulkner have knowledge but has ignored treatment and cure. I did not have Hep C prior to ~~being~~ coming to M.D.A.C. Prison.

State briefly exactly what you want the court to do for you. Do not make legal arguments. Do not cite legal authority.

I am requesting to be treated and cured for this disease that M.D.A.C. gave me without any further delays and obstructions. I am requesting the cost to be paid by M.D.A.C. for prosecuting this civil action. I am requesting a Jury trial pursuant to F.R.C.P. 38(a) and to be compensated for this negligent by prison staff for ~~not~~ giving me this disease the sum to be set by this court.

This Complaint was executed at (location): \_\_\_\_\_

and I declare or certify or verify or state under penalty of perjury that this Complaint is true and correct.

Date: 5/28/2018

Jeffery Van Wagner  
Plaintiff's Signature

INMATE RECEIPT

MISSISSIPPI DEPARTMENT OF CORRECTIONS  
Administrative Remedy Program

ARP # mSP - 18 - 636

Date: 15-18-2018

Received By: Jerry Van Wagner

MDOC #

Witness: Ryan Kij Corp. Commander

TITLE

\_\_\_\_\_ Form ARP-1 — Offender's relief form

\_\_\_\_\_ Form ARP-2 — 1st step response

\_\_\_\_\_ Form ARP-3 — 2nd step response

\_\_\_\_\_ 5-Day extension

\_\_\_\_\_ Step 2 denial

1 \_\_\_\_\_ Rejected

\_\_\_\_\_ Letter #

\_\_\_\_\_ Other

1st page of this receipt is to be returned to the Administrative Remedy  
Program Director to become part of inmate's ARP file

CODE: 0100

ARP-1

**MISSISSIPPI DEPARTMENT OF CORRECTIONS**  
**Administrative Remedy Program**

**MSP-18-0636**

First Step Respondent: N/A  
Location:

**REJECTED**

Offenders' Name and No: JERRY VANWAGNER #161751  
Unit: 30 C

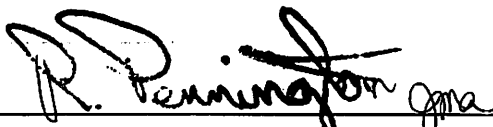
Date of incident: 04-2018

OT-17

☐ **ACCEPTED:** This request comes to you from the Administrative Remedy Program Director. See the attached request from the offender. **Please return your response to this office within 30 days of this date.**

☒ **REJECTED:** Your request has been rejected for the following reason(s):

- ☐ Relief is beyond the power of the Mississippi Department of Corrections to grant.
- ☐ The complaint concerns an action not yet taken or a decision which has not yet been made.
- ☐ There has been a time lapse of more the fifteen (15) days between the **RVR** and the initial request: Incident happened on \_; received in this office on \_.
- ☐ There has been a time lapse of more the thirty (30) days between the event and the initial request: Incident happened on \_; received in this office on \_.
- ☐ The Mississippi Department of Corrections does not handle Parole Board matters.
- ☒ Other: Relief is beyond the power of the Administrative Remedy Program to grant.

  
\_\_\_\_\_  
Director of Administrative Remedy Program

05/11/18  
\_\_\_\_\_  
Date

ksc

May 8, 2018

This is a request for an  
Administrative Remedy to Richard Pennington

From: Jerry VanWagner #161751  
Unit 30 C building  
Parchman, MS. 38738

### Statement of Fact

1. In April 2018 I, Jerry VanWagner was told by Medical Director of M.S.P. that the medications to treat my Hepatitis C are too expensive for M.D.O.C to provide. Therefore M.D.O.C is denying me adequate medical treatment for a disease I, Jerry VanWagner received from unsanitary barber equipment (clippers) while getting a haircut as required by M.D.O.C grooming policy.
2. I, Jerry VanWagner am being denied adequate Medical treatment contrary to the Eight Amendment



M.D.O.C medical was made aware of this contagious Hepatitis C disease in 2012, and is yet to provide treatment and/or the Harven's care because the cure is very costly. My enzyme level has risen and this disease is now causing my health to deteriorate. Failure to treat this disease will cause permanent organ damage and death. I, Jerry VanWagner have been waiting treatment since 2012 while my health is failing

Relief

I, Jerry VanWagner \*161751 respectfully request the following relief.

A. That I, Jerry VanWagner receive the proper medications and treatment for this

Hepatitis C disease that I, Jerry VanWagner contracted from unsanitary barber equipment without any further delays, denial, and/or excuses from Medical Staff.

b. That no retaliatory action be taken by Medical and/or security staff for filing this grievance.

c. That I, Jerry VanWagner be compensated for M.D.O.C. violating my Eight and Fourteenth Amendments since 2012.

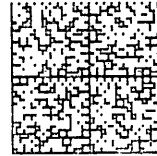
This relief is deemed just and proper.

Respectfully Submitted  
Jerry VanWagner #161751  
M.S.P. Unit 30C bed # 146  
P.O. Box 1060  
Parchman, MS. 38738

Jerry Van Wagner # 161751  
M.S.P. Unit 30-C

Parchman, MS  
MISSISSIPPI STATE PENITENTIARY  
INMATE LEGAL ASSISTANCE PROGRAM  
POST OFFICE BOX 10  
PARCHMAN, MS 38738  
STATE POSTAGE PAID  
INMATE LEGAL MAIL  
MISSISSIPPI STATE PENITENTIARY  
PARCHMAN, MS 38738  
THE ENCLOSED LETTER HAS NEITHER BEEN OPENED  
OR INSPECTED. IF THE WRITER ENCLOSES ANY  
MATERIAL NOT PERTAINING TO LEGAL BUSINESS OR  
ENCLOSES CORRESPONDENCE FOR FORWARDING TO  
ANOTHER ADDRESSER, PLEASE RETURN THE ENCL.

INCL 50M  
MS 380  
12 JUL '18  
PM 3 L



U.S. POSTAGE 47 PENCE  
ZIP 38738 \$ 000.68<sup>0</sup>  
02 4W  
0000356601 JUL 12 2018

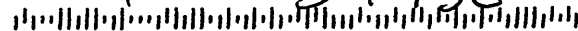
PAID

RECEIVED  
JUL 16 2018

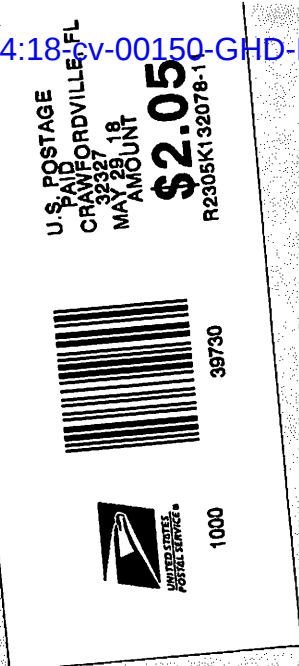
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

Hon David Crews Clerk  
United States District Court  
301 W. Commerce St. #13  
Aberdeen, MS. 39730

39730-999899



Jerry Van Wagner 6/16/18  
MSP Unit 30 C Bldg  
Parchman, MS 38738



RECEIVED

JUN - 1 2018

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI

DAVID CREWS Clerk  
U.S. District Court  
301 W. Commerce St #13  
Aberdeen, Ms 38738

X-RAYED